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 FEDERAL DEFENDERS OF EASTERN WASHINGTON AND IDAHO
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Attorneys for Defendant
 ANTHONY BURKE

UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF WASHINGTON
 (HONORABLE WM. FREMMING NIELSEN)

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	CR-06-113-WFN
)	
Vs.)	Defendant's Objections to
)	the Presentence Report
ANTHONY BURKE,)	
)	
Defendant.)	
_____)	

TO: JAMES McDEVITT, UNITED STATES ATTORNEY
 JOSEPH H. HARRINGTON, ASSISTANT UNITED STATES ATTORNEY

ANTHONY BURKE, through counsel, Christina L. Hunt for the
 Federal Defenders of Eastern Washington and Idaho, hereby files
 these his objections to the presentence report prepared in the
 above-styled case.

1. Mr. Burke objects to Paragraph 32, and its addition of
 four points for possessing the ammunition in connection with
 another offense, i.e. domestic violence, harrassment. In order
 for this addition to be proper, the ammunition must have
 facilitated or had the potential of facilitating the other felony
 offense. See U.S.S.G. §2K2.1, Application Note 14. In the case
 at bar, Mr. Burke made threats of harm to his mother after he and
 his mother had been arguing about whether or not he had committed

1 damage to a neighbor's home. Mr. Burke denies that he showed his
2 mother the ammunition. Furthermore, the ammunition did not
3 facilitate the verbal threat in any way, nor did it have the
4 potential of facilitating the threat. There was no weapon found,
5 and Mr. Burke had no way to use the ammunition to facilitate any
6 verbal threat.

7 Given the above, the appropriate offense level is thus 12,
8 not 15, with a resulting guideline range of 10-16 months.

9 2. Mr. Burke objects to the inclusion in the report of
10 Paragraphs 42 through 65 which are based upon unsubstantiated
11 accounts of conversations Mr. Burke had with inmates at the
12 Spokane County Jail. Mr. Burke further objects to the inclusion
13 in these paragraphs of tales that Mr. Burke had stored certain
14 documents and images on his computer. Law enforcement officials
15 never corroborated, from any search of Mr. Burke's laptop, any of
16 these documents or images. When the laptop was viewed by law
17 enforcement, no such documents nor images were found on his
18 computer. A computer forensic search was not done, although if
19 said search was done, any deleted files could have been viewed if
20 they existed.

21 These Paragraphs portray Mr. Burke as a dangerous
22 individual, yet they are not based upon evidence. The
23 information included comes only from persons with self interests
24 which makes the information suspect. No criminal charges of any
25 sort were brought on the basis of the above information, and as
26 such, its inclusion in the presentence report (which follows Mr.

1 Burke through the Bureau of Prisons system) is extraordinarily
2 prejudicial. For this reason, Mr. Burke requests that they be
3 removed in their entirety.

4 3. Mr. Burke objects to Paragraph 77, which claims that Mr.
5 Burke shoved his stepfather. The fourth degree assault charge
6 was dismissed. Mr. Burke denies he ever shoved his stepfather.

7 4. Mr. Burke objects to Paragraph 86 which alleges that Mr.
8 Burke choked his brother Deryk. Mr. Burke explains that he
9 deliberately bumped his brother, but never choked him.

10 5. Mr. Burke objects to Paragraph 95 and 97. Mr. Burke
11 explains that he never stole items from Mr. Havens or anyone else
12 at the apartment building. Mr. Burke states further that Mr.
13 Havens struck Mr. Burke first. This charge was dismissed.

14 6. Mr. Burke objects to Paragraph 102 which alleges that
15 Mr. Burke was unlawfully on the property of the House family. Mr
16 Burke denies that allegation; the charge was dismissed.

17 7. Mr. Burke objects to Paragraph 112 which alleges that
18 Mr. Burke's relationship with his stepfather became more tense as
19 Mr. Burke's behavioral and mental health problems became more
20 pronounced. Mr. Burke states that the relationship worsened when
21 his stepfather broke his back in 2000 and could not work.

22 8. Mr. Burke contends that the section of the presentence
23 report dealing with his mental and emotional health has been
24 overstated and exaggerated. Mr. Burke alleges that many of his
25 issues are the result of the severe abuse and mistreatment he has
26 suffered at the hands of his stepfather. This mistreatment and
27

1 abuse has included giving false information to both law
2 enforcement officials as well as mental health professionals.

3 Dated: August 17, 2007

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5 Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 17, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following: JOSEPH H. HARRINGTON, Assistant United States Attorney.

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